

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application. Claims 1-5, 8, 9 and 11-17 remain in the application and claim 1 is independent. The Office Action dated February 2, 2011 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

Examiner Interview

Following receipt of the final Office Action, Applicant requested an interview with Examiner Thomas McEvoy to discuss the rejections of record. Applicant and Applicant's representative Paul T. Sewell wish to thank Examiner McEvoy for the courtesies extended to Applicant's representative during the telephone interview with Examiner McEvoy, which was conducted on May 5, 2011. During the interview we reviewed the features of the invention by reference to the drawings and reviewed the features of the applied prior art, especially those of the base reference to Browne. After a lengthy discussion, Examiner McEvoy finally agreed that there were features of the invention that are not obvious over Browne, but which he feels were not yet specifically recited in a manner that would avoid the reference combinations.

Examiner McEvoy suggested that more specific recitation of the features of concave engagement faces, such as those of 313, including the faces 311a, 313a and 313b, in combination with the features of the cutter blade from the specification, would likely avoid the prior art of record. However, no specific allowable claim language was agreed upon. Examiner McEvoy also indicated that consideration of such a claim after final may raise new issues which may require further search, but Applicant submits that Examiner McEvoy has already performed numerous searches and updates as to claims of this scope, including similar claim language and that it would appear that at most an update would be required.

Responsive to the helpful suggestions of Examiner McEvoy, Applicant presents herein language directed to the features suggested during the interview, in an effort to bring the prosecution to a successful conclusion. The above constitutes Applicants statement of the substance of the interview.

Legal Standard for Anticipation and Obviousness Rejections

According to MPEP § 2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989).

Similar to anticipation rejections, in order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385, 1395 (2007) (citing *In Re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).

Claim Rejections -- 35 U.S.C. § 103

Claims 1-5, 8, 9 and 11-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Browne in view of Gobeil and Graue. Claims 2-5, 9 and 11-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Browne in view of Gobeil, and further in view of Cardozo. These rejections, insofar as they are applicable to these claims, are respectfully traversed.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicants respectfully submit that independent claim 1 has been amended to recite a combination of elements in a tool for removing ticks including, *inter alia*, at the bottom of the V-shaped groove a cutter blade having a sharp front edge substantially perpendicular to a central length of the V-shaped groove is provided level with the bottom face, and further wherein the concave engagement face extends from the perpendicular lowermost part to the top face of the tool and wherein the concave engagement face includes a first part parallel to the bottom face and a second part that extends as a plane face from the first part to the top face. Applicant respectfully submits that this combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Browne, Gobeil and Graue, or Browne, Gobeil and Cardozo.

As was discussed in detail during the interview, none of the applied references shows or suggests at least two of these features. Browne merely shows a "V-shaped notch a" in a tack puller. Browne fails to show or suggest, at the bottom of the V-shaped groove, a cutter blade having a sharp front edge substantially perpendicular to a central length of the V-shaped groove provided level with the bottom face. In addition, Browne also fails to show a concave engagement face that extends from the perpendicular lowermost part to the top face of the tool and wherein the concave engagement face includes a first part parallel to the bottom face and a second part that extends as a plane face from the first part to the top face. These structural features are not shown or suggested by the prior art and directly contribute to the advantageous performance of the functions related to tick pulling, rather than the pulling of tacks.

Gobeil was cited to show an aircraft fastener remover 10 wherein, as can be seen in Figures 4-6, rather than providing a cutter, "flexing of the body portion 12 of the tool 10 creates a spring force acting upwardly on the head 34 of the fastener 30 to assist in fastener removal." See column 3, lines 11-14. Gobeil fails to show or suggest at the bottom of the V-shaped groove a cutter blade having a sharp front edge substantially perpendicular to a central length of the V-shaped groove provided level with the bottom face. In addition, Gobeil also fails to show a concave engagement face that extends from the perpendicular lowermost part to the top face of the tool and wherein the concave engagement face includes a first part parallel to the bottom face and a second part that extends as a plane face from the first part to the top face. Therefore, Gobeil cannot remedy the defects of Browne discussed above.

Cardozo was relied upon for a side face 8 that increases in height. Cardozo is a tack puller. Cardozo fails to show or suggest at the bottom of the V-shaped groove a cutter blade having a sharp front edge substantially perpendicular to a central length of the V-shaped groove provided level with the bottom face. In addition, Cardozo also fails to show a concave engagement face that extends from the perpendicular lowermost part to the top face of the tool and wherein the concave engagement face includes a first part parallel to the bottom face and a second part that extends as a plane face from the first part to the top face. Therefore, Cardozo cannot remedy the defects of Browne discussed above.

Furthermore, Applicant respectfully submits that this combination of references proposes to improperly combine unrelated references, one of which references explicitly indicates such features should not be combined, such as are present in the other two references. And even if the

combination were to be made, which Applicant does not admit is obvious, it would fail to show or suggest the claimed invention.

More specifically, the rejection proposes to combine the fastener removal tool of Gobeil with the tack puller of Browne. Applicant respectfully points out that Gobeil clearly indicates in column 1, lines 17-27, that “[c]urrently available fastener removal tools or nail pullers are incompatible” with tools for removal of snap fasteners. Gobeil discloses features of a snap fastener remover. Thus, features of fastener removal tools such as Gobeil cannot be combined with nail pullers such as Browne because the handles provide “concentrated loading.” In addition, the rejection admits that Browne “fails to disclose the blade thickness as claimed”. Further in addition, MPEP § 2143.01, sections V and VI prohibit a combination of two references where the incorporation of features from the second reference renders the base reference “unsatisfactory for its intended purpose” or results in a “change [of] the principle of operation of the reference.” Gobeil desires to eliminate the handle to eliminate the “concentrated loading.” Combining Browne and Gobeil would violate both sections V and VI of § 2143.01.

Moreover, by adding a second tack puller to a combination with another tack puller and an aircraft snap fastener remover, in an attempt to address the features of a tick remover, it is submitted that the rejection is using the instant claims as a template rather than establishing *prima facie* obviousness.

Applicant respectfully submits that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Browne, Gobeil and Graue or Browne, Gobeil and Cardozo, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With regard to dependent claims 2-5, 8, 9 and 11-17, Applicant submits that dependent claims 2-5, 8, 9 and 11-17 depend, either directly or indirectly, from independent claim 1 which is allowable for the reasons set forth above, and therefore claims 2-5, 8, 9 and 11-17 are allowable based at least on their dependence from claim 1. Reconsideration and allowance thereof are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance.

Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

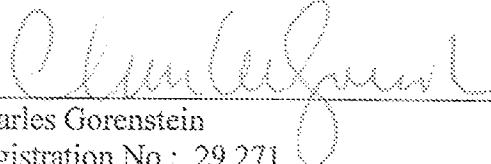
Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 
Charles Gorenstein
Registration No.: 29,271
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000